

APPEAL NO. 022466  
FILED OCTOBER 31, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on August 26, 2002. The hearing officer determined that (1) the respondent (carrier) has not waived the right to dispute compensability of the claimed injury by not contesting the injury in accordance with Section 409.021; (2) the claimant did not sustain a compensable injury on \_\_\_\_\_; (3) the claimed injury arose out of an act of a third person intending to injure the appellant (claimant) because of personal reasons and not directed at the claimant as an employee or because of the employment, thereby relieving the carrier of liability for compensation; and (4) because the claimant did not sustain a compensable injury, he did not have disability. The claimant appeals each of the determinations, asserting that the carrier waived its right to dispute compensability of the claimed injury under Texas Workers' Compensation Commission Advisory 2002-15 and on sufficiency grounds. The carrier urges affirmance.

DECISION

Reversed and remanded.

Section 410.203(a)(1) provides that the Appeals Panel shall consider the record developed at the CCH. See Texas Workers' Compensation Commission Appeal No. 93809, decided October 25, 1993. The audiotape recording of the hearing is, at times, inaudible or unintelligible and prevents a full review of the record. Accordingly, we remand this case for reconstruction of the record. See Texas Workers' Compensation Commission Appeal No. 960968, decided July 3, 1996.

On remand, the hearing officer shall reconsider each of the appealed determinations in view of Texas Workers' Compensation Commission (Commission) Advisory 2002-15, dated September 12, 2002, and our decision in Texas Workers' Compensation Commission Appeal No. 021944-s, decided September 11, 2002 and Texas Workers' Compensation Commission Appeal No. 022027-s, decided September 30, 2002. The hearing officer may make further findings of fact and conclusions of law, as necessary, with regard to the appealed issues. The hearing officer should also address the claimant's request for correction of a clerical error in stipulated Finding of Fact No. 1(d), regarding the date on which the carrier disputed compensability of the claimed injury.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Commission's division of hearings, pursuant to Section

410.202 (amended June 17, 2001). See Texas Workers' Compensation Commission Appeal No. 92642, decided January 20, 1993.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSELL R. OLIVER, PRESIDENT  
221 WEST 6TH STREET  
AUSTIN, TEXAS 78701.**

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Veronica Lopez  
Appeals Judge